

ANGELA L. PADILLA (CA SBN 154863)
APadilla@mofo.com
LINDSAY T. BRAUNIG (CA SBN 244125)
LBraunig@mofo.com
MORRISON & FOERSTER LLP
425 Market Street
San Francisco, California 94105-2482
Telephone: 415.268.7000
Facsimile: 415.268.7522

Attorneys for Defendant
TARGET CORPORATION

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

VALLAVISTA CORPORATION, a California
corporation,

Plaintiff,

v.

AMAZON.COM, INC., a Delaware corporation,
TARGET CORPORATION, a Minnesota
corporation, EBAGS, INC., a Colorado
corporation, EMPORIUM LEATHER
COMPANY, INC., a New Jersey corporation,
doing business as ROYCE LEATHER, and
FASHION HANDBAGS, INC., a Nevada
corporation, doing business as BO BO BAGS,

Defendants.

Case No. C-07-05360-PVT

**SEPARATE ANSWER OF
DEFENDANT TARGET
CORPORATION TO
COMPLAINT**

1 As its Answer to the Complaint of plaintiff Vallavista Corporation ("Plaintiff"), defendant
2 Target Corporation ("Target") makes the following answers, statements and allegations. Except
3 as hereinafter expressly admitted, qualified, or otherwise answered, Target denies each and every
4 allegation and assertion made in the Complaint.

5 **(Parties)**

6 1. Target is without knowledge or information sufficient to form a belief as to the
7 truth of the allegations of paragraph 1 of the Complaint.

8 2. Target is without knowledge or information sufficient to form a belief as to the
9 truth of the allegations of paragraph 2 of the Complaint.

10 3. Answering paragraph 3 of the Complaint, Target admits that it is a corporation
11 organized under the laws of the State of Minnesota, that Target operates more than 200
12 TARGET® retail stores in California, and that Target operates the internet website at
13 <http://www.target.com>.

14 4. Target is without knowledge or information sufficient to form a belief as to the
15 truth of the allegations of paragraph 4 of the Complaint.

16 5. Target is without knowledge or information sufficient to form a belief as to the
17 truth of the allegations of paragraph 5 of the Complaint.

18 6. Target is without knowledge or information sufficient to form a belief as to the
19 truth of the allegations of paragraph 6 of the Complaint.

20 **(Jurisdiction)**

21 7. Answering paragraph 7 of the Complaint, Target admits that the Court has subject
22 matter jurisdiction over the action.

23 8. Answering paragraph 8 of the Complaint, Target denies that venue is proper in the
24 Northern District of California under 28 U.S.C. § 1391(a).

25 **(Intradistrict Assignment)**

26 9. Target denies the allegations of paragraph 9 of the Complaint.
27
28

(Allegations Common to All Counts)

10. Target denies the allegations of paragraph 10 of the Complaint, except states that the Complaint speaks for itself.

11. Target is without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 11 of the Complaint, except states that the document attached to the Complaint as Exhibit "A" speaks for itself.

12. Target is without knowledge or information sufficient to form a belief as to the truth of the allegations of the first sentence of paragraph 12 of the Complaint. Target denies the allegations of the second sentence of paragraph 12 of the Complaint.

13. Target denies the allegations of paragraph 13 of the Complaint.

14. Target is without knowledge or information sufficient to form a belief as to the truth of the allegations of the first sentence of paragraph 14 of the Complaint. Target denies the remaining allegations of paragraph 14 of the Complaint upon information and belief.

15. Target denies the allegations of paragraph 15 of the Complaint upon information and belief, except states that the document attached to the Complaint as Exhibit "B" speaks for itself.

16. Target is without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 16 of the Complaint.

17. Target is without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 17 of the Complaint.

18. Target is without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 18 of the Complaint.

19. Target is without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 19 of the Complaint.

20. Target denies the allegations of paragraph 20 of the Complaint upon information and belief.

21. Target is without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 21 of the Complaint.

22. Target denies the allegations of paragraph 22 of the Complaint.

23. Target denies the allegations of paragraph 23 of the Complaint.

(Count One)

24. Answering paragraph 24 of the Complaint, Target repeats, realleges and incorporates by reference the foregoing paragraphs of this Answer.

25. Target denies the allegations of paragraph 25 of the Complaint.

26. Target denies the allegations of paragraph 26 of the Complaint.

27. Target denies the allegations of paragraph 27 of the Complaint.

28. Target denies the allegations of paragraph 28 of the Complaint.

29. Target is without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 29 of the Complaint.

30. Target is without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 30 of the Complaint.

31. Target is without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 31 of the Complaint.

32. Target is without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 32 of the Complaint.

33. Target is without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 33 of the Complaint.

34. Target is without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 34 of the Complaint.

35. Target is without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 35 of the Complaint.

36. Target is without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 36 of the Complaint.

37. Target is without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 37 of the Complaint.

1 38. Target is without knowledge or information sufficient to form a belief as to the
2 truth of the allegations of paragraph 38 of the Complaint.

3 39. Target is without knowledge or information sufficient to form a belief as to the
4 truth of the allegations of paragraph 39 of the Complaint.

5 40. Target is without knowledge or information sufficient to form a belief as to the
6 truth of the allegations of paragraph 40 of the Complaint.

7 41. Answering paragraph 41 of the Complaint, Target states that on or around May 16,
8 2007, a product sold by Target was described as "Isaac Mizrahi for Target Taxi Wallet with Turn
9 Lock."

10 42. Target is without knowledge or information sufficient to form a belief as to the
11 truth of the allegations of paragraph 42 of the Complaint.

12 43. Answering paragraph 43 of the Complaint, Target admits that Plaintiff sent Target
13 correspondence dated May 22, 2007, and further states that the correspondence speaks for itself.

14 44. Answering paragraph 44 of the Complaint, Target admits that it sent
15 correspondence dated May 31, 2007, and further states that the correspondence speaks for itself.

16 45. Target is without knowledge or information sufficient to form a belief as to the
17 truth of the allegations of paragraph 45 of the Complaint.

18 46. Target denies the allegations of paragraph 46 of the Complaint.

19 47. Target denies the allegations of paragraph 47 of the Complaint.

20 48. Target denies the allegations of paragraph 48 of the Complaint.

21 49. Target is without knowledge or information sufficient to form a belief as to the
22 truth of the allegations of paragraph 49 of the Complaint.

23 50. Target is without knowledge or information sufficient to form a belief as to the
24 truth of the allegations of paragraph 50 of the Complaint.

25 51. Target is without knowledge or information sufficient to form a belief as to the
26 truth of the allegations of paragraph 51 of the Complaint.

27 52. Target is without knowledge or information sufficient to form a belief as to the
28 truth of the allegations of paragraph 52 of the Complaint.

53. Target is without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 53 of the Complaint.

54. Target is without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 54 of the Complaint.

55. Target is without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 55 of the Complaint.

56. Target is without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 56 of the Complaint.

57. Target is without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 57 of the Complaint.

58. Target is without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 58 of the Complaint.

59. Target is without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 59 of the Complaint.

60. Target is without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 60 of the Complaint.

(Count Two)

61. Answering paragraph 61 of the Complaint, Target repeats, realleges and incorporates by reference the foregoing paragraphs of this Answer.

62. Target denies the allegations of paragraph 62 of the Complaint.

63. Target denies the allegations of paragraph 63 of the Complaint.

64. Target denies the allegations of paragraph 64 of the Complaint.

(Count Three)

65. Answering paragraph 65 of the Complaint, Target repeats, realleges and incorporates by reference the foregoing paragraphs of this Answer.

66. Target denies the allegations of paragraph 66 of the Complaint upon information and belief.

67. Target denies the allegations of paragraph 67 of the Complaint.

1 68. Target denies the allegations of paragraph 68 of the Complaint.

2 69. Target denies the allegations of paragraph 69 of the Complaint.

3 70. Target denies the allegations of paragraph 70 of the Complaint.

4 **(Count Four)**

5 71. Answering paragraph 71 of the Complaint, Target repeats, realleges and
6 incorporates by reference the foregoing paragraphs of this Answer.

7 72. Target denies the allegations of paragraph 72 of the Complaint.

8 73. Target denies the allegations of paragraph 73 of the Complaint.

9 74. Target denies the allegations of paragraph 74 of the Complaint.

10 **(Count Five)**

11 75. Answering paragraph 75 of the Complaint, Target repeats, realleges and
12 incorporates by reference the foregoing paragraphs of this Answer.

13 76. Target denies the allegations of paragraph 76 of the Complaint.

14 77. Target denies the allegations of paragraph 77 of the Complaint.

15 **FIRST AFFIRMATIVE DEFENSE**

16 The Complaint fails, in whole or in part, to state a claim against Target upon which relief
17 can be granted.

18 **SECOND AFFIRMATIVE DEFENSE**

19 Plaintiff's alleged damages, if any, may have been caused by Plaintiff's own conduct
20 and/or failure to mitigate damages, or by others beyond the control of Target.

21 **THIRD AFFIRMATIVE DEFENSE**

22 Plaintiff's claims may be barred in whole or in part by the doctrines of waiver, estoppel,
23 and/or laches.

24 **FOURTH AFFIRMATIVE DEFENSE**

25 Plaintiff has not suffered injury in fact and has not lost money or property as a result of
26 any alleged acts of Target.

FIFTH AFFIRMATIVE DEFENSE

Plaintiff is not entitled to any injunctive or equitable relief because it will not suffer irreparable harm.

SIXTH AFFIRMATIVE DEFENSE

Plaintiff is not entitled to any injunctive or equitable relief because it has an adequate remedy at law.

WHEREFORE, defendant Target respectfully prays that the Court enter a judgment:

- (a) On Plaintiff's claims against Target, in favor of Target and against Plaintiff;
- (b) Awarding Target its costs of suit herein and any available attorneys' fees; and
- (c) Awarding Target such other relief as the Court may deem just and equitable under the circumstances.

Dated: December 3, 2007

ANGELA L. PADILLA
LINDSAY T. BRAUNIG
MORRISON & FOERSTER LLP

By: /s/ Angela L. Padilla
Angela L. Padilla

Attorneys for Defendant
TARGET CORPORATION